



07-CV-05711-ORD

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CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ALASKA AIRLINES, INC.,

Plaintiff,

vs.

BRADLEY CAREY and CELESTE CAREY;  
CAREY TRAVEL, INC., a Washington  
corporation,

Defendants, Counterclaimants  
and Third Party Plaintiffs,

vs.

KYLE LEVINE; ANN ARDIZZONE; and  
POINTS INTERNATIONAL LTD.,

Third Party Defendants.

No. C 07-5711 RBL

STIPULATION AND AGREED  
ORDER RE CERTAIN  
COUNTERCLAIMS AND THIRD  
PARTY CLAIMS

All parties hereto hereby stipulate as follows:

1. Third Party Defendants Kyle Levine and Ann Ardizzone shall be dismissed from this action without prejudice to Third Party Plaintiffs' right to assert in any later appeal that this Court's July 11, 2008 Order erred in the dismissal of said individuals. Further, the dismissal of said individuals shall be without prejudice to Third Party Plaintiffs' right to move this Court for Leave of Court pursuant to FRCP 15(a) to add them again as parties if discovery reveals additional facts upon which to base a claim against said individuals. Plaintiff reserves the right to oppose any such motion.

RESPONSE TO POINTS' MOTION  
TO DISMISS - 1

WARREN & DUGGAN, P.L.L.C.  
401 SECOND AVENUE SO., SUITE 600  
SEATTLE, WASHINGTON 98104  
(206) 343-1888 (206) 343-2300 FAX

1           2.       Counterclaimants' Sixth, Seventh, Ninth and Tenth (6, 7, 9 and 10) counterclaims  
2 shall be dismissed on the basis that such claims were held by this Court in its July 11, 2008 Order as  
3 being preempted by the Federal Airline Deregulation Act, 49 U.S.C. §41713. Said dismissal is  
4 without prejudice to Counterclaimants right to assert in any later appeal that the dismissal of said  
5 counterclaims was in err.

6  
7           DATED this 17<sup>th</sup> day of September, 2008.

8                               WARREN & DUGGAN, PLLC

9  
10                              By 

11                              Michael J. Warren, WSBA #14177  
12                              Attorneys for Counterclaimants and  
13                              Third Party Plaintiffs

14           DATED this 17<sup>th</sup> day of September, 2008.

15                              CORR CRONIN MICHELSON  
16                              BAUMGARDNER & PREECE

17                              By  

18                              Steven W. Fogg, WSBA #23528  
19                              Attorneys for Plaintiffs and  
20                              Third Party Defendants

21                              **ORDER**

22           BASED UPON THE FOREGOING STIPULATION, this Court Orders as follows:

23           1.       Third Party Defendants Kyle Levine and Ann Ardizzone are hereby dismissed from  
24 this action without prejudice to Third Party Plaintiffs' right to assert in any later appeal that this  
25 Court's July 11, 2008 Order erred in the dismissal of said individuals. Further, the dismissal of said  
26 individuals shall be without prejudice to Third Party Plaintiffs' right to move this Court for Leave of  
Court pursuant to FRCP 15(a) to add them again as parties if discovery reveals additional facts upon

1 which to base a claim against said individuals. Plaintiff shall have the right to oppose any such  
2 motion.

3 2. Counterclaimants' Sixth, Seventh, Ninth and Tenth (6, 7, 9 and 10) counterclaims are  
4 hereby dismissed on the basis that such claims were held by this Court in its July 11, 2008 Order as  
5 being preempted by the Federal Airline Deregulation Act, 49 U.S.C. §41713. Said dismissal is  
6 without prejudice to Counterclaimants right to assert in any later appeal that the dismissal of said  
7 counterclaims was in err.  
8

9 IT IS SO ORDERED.

10 Dated this 5<sup>th</sup> day of January, 2009  
11 ~~September, 2008.~~

12   
13 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE

14 Presented by:

15 WARREN & DUGGAN, PLLC

16 By 

17 Michael J. Warren (WSBA #14177)  
18 Attorney for Counterclaimants and  
Third Party Plaintiffs

19 Approved for Entry:

20 CORR CRONIN MICHELSON  
21 BAUMGARDNER & PREECE

22 By  *per email within 9*

23 Steven W. Fogg, WSBA #23528  
24 Attorneys for Plaintiffs and  
25 Third Party Defendants  
26